

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DAVID COOPER

*

Plaintiff,

*

v.

*

2:06-CV-418-MHT
(WO)

DR. NICHOLS, *et al.*,

*

Defendants.

*

RECOMMENDATION OF THE MAGISTRATE JUDGE

This 42 U.S.C. § 1983 action was filed by Plaintiff on May 9, 2006. On May 12, 2006 the court entered an order of procedure which instructed Plaintiff, among other things, to inform the court of any change in his address. (Doc. No. 4, ¶5(h).) It recently came to the undersigned's attention that the most recent address provided to the court by Plaintiff is not valid inasmuch as mail recently sent to him in another one of his pending cases was returned to the court marked "return to sender; no such number."¹ (*See Cooper v. Marshall*, Civil Action No. 2:07-CV-129.) Consequently, an order was entered on March 20, 2007 directing Plaintiff to provide the court with a current and accurate address on or before March 29, 2007. (Doc. No. 110.) Plaintiff was cautioned that his failure to comply with the court's March 20 order would result in a recommendation that this case be dismissed. (*Id.*)

¹Plaintiff is no longer incarcerated.

Plaintiff has filed no response to the court's March 20, 2007 order. As it appears clear that the court file does not contain an alternate address for Plaintiff and that he has not provided this court with a current and/ or valid address, the undersigned concludes that dismissal of the complaint at this juncture is appropriate.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Plaintiff's failures to prosecute this action properly and to comply with the orders of this court.

It is further

ORDERED that the parties are DIRECTED to file any objections to the Recommendation on or before **April 17, 2007**. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which a party objects. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a *de novo* determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (*en banc*), adopting as binding precedent all of the

decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done, this 5th day of April 2007.

/s/Terry F. Moorer
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE